

NOT FOR PUBLICATION

MAR 15 2006

UNITED STATES COURT OF APPEALS

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

FOR THE NINTH CIRCUIT

MAHENDRA SINGH; et al.,

Petitioners,

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

No. 04-72950

Agency Nos. A73-423-271
A73-423-272
A73-423-273

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted March 8, 2006**

Before: CANBY, BEEZER and KOZINSKI, Circuit Judges.

Mahendra Singh, his wife, Gian Kaur, and their daughter, Praveen Kaur,
natives and citizens of Fiji, petition for review of the Board of Immigration
Appeals' ("BIA") affirmance of an Immigration Judge's ("IJ") denial of their

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

applications for asylum, withholding of deportation, and for relief under the Convention Against Torture (“CAT”). We review the IJ’s and BIA’s decision for substantial evidence. *INS v. Elias-Zacarias*, 502 U.S. 478, 481 (1992). We deny in part and dismiss in part the petition for review.

Substantial evidence supports the IJ’s and BIA’s decision that petitioners failed to establish past persecution or a well-founded fear of future persecution based on an enumerated ground. Because petitioners failed to present evidence compelling the conclusion that any mistreatment that they may have experienced was based on an enumerated ground, petitioners fail to establish eligibility for asylum. *See id.* Accordingly, we deny the petition on the asylum claim.

Petitioners failed to exhaust their withholding of deportation and CAT claims before the BIA, and therefore we lack jurisdiction to consider these claims. *See Barron v. Ashcroft*, 358 F.3d 674, 678 (9th Cir. 2004).

Pursuant to *Eliau v. Ashcroft*, 370 F.3d 897 (9th Cir. 2004) (order), petitioners’ voluntary departure period will begin to run upon issuance of this court’s mandate.

PETITION FOR REVIEW DENIED in part and DISMISSED in part.